IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 341 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO No

2. To be referred to the Reporter or not? No :

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO No

5. Whether it is to be circulated to the Civil Judge? No :

DAHYABHAI PITHABHAI SOLANKI

Versus

STATE OF GUJARAT

Appearance:

MR JITENDRA MALKAN for Petitioners

Mr.L.R.Pujari, A.P.P. for Respondent No. 1

MR SANJAY M AMIN for Respondent No. 2

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 30/08/2000

ORAL JUDGEMENT

1. List has been revised thrice, none appeared for the revisionist. Shri L.R.Pujari, learned A.P.P. representing the respondent No.1 has been heard.

2. This revision is awaiting admission. It is directed against the order dated 30.5.1997 passed by the Metropolitan Magistrate, Court No.5, Ahmedabad, rejecting the application of the revisionist who sought discharge on the basis of a private complaint filed by the respondent No.2. It appears from the record that the respondent No.2, the complainant, who was working as Deputy Secretary (Revenue) and is a Gazette Officer filed complaint under Sec. 120 (B), 384, 387, 504, 506, 500 and 144 of the Indian Penal Code against the revisionist. Learned Magistrate recorded the statement of the complainant under Sec. 200 Cr.P.C. which has been read over by Mr.Pujari before me. The zerox copy of news paper cutting "Sandesh" dated 8.5.1997 was also filed. Learned Magistrate did not consider to proceed for further inquiry under Sec. 202 of the Cr.P.C. Finding that there was sufficient material for proceeding agsinst the revisionist and after application of mind to the statement of the complainant the learned Magistrate summoned the revisionists only under Sec. 500 and 114 I.P.Code. It was not the impugned order where the revisionists were summoned under all the sections of the Indian Penal Code under which the complaint was filed. At that stage the Magistrate was required to find out from the material on record whether there was prima facie material for proceeding against the accused person and if so under what section of the Indian Penal Code. That exercise was done by the learned Magistrate.

3. After summonses were served upon the revisionists they moved the application for discharge which was rejected by the learned Magistrate through the impugned order dated 24.3.1999. I do not find any illegality in such order. The impugned order reiterates the earlier order passed by the learned Magistrate and is based on the statement of the complainant and zerox copy of the news item published in daily "Sandesh" on 8.5.1997. Further evidence has yet to be collected as to who was the author of this news item. The complainant alleged that in the estimation of his colleagues in the office as well as amongst his relatives his reputation was lowered. As such the impugned order cannot be said to be illegal.

There is no merit in this revision which is hereby rejected.

sd/-

Date : August 30, 2000 (D. C. Srivastava, J.)

sas